

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

MARCUS R. ELLINGTON,

Plaintiff,

No. CIV S-04-0666 JKS KJM P

vs.

E.S. ALAMEIDA, et al.,

Defendants.

ORDER

Plaintiff is a state prisoner proceeding pro se and in forma pauperis with an action filed pursuant to 42 U.S.C. § 1983. By order filed September 5, 2008, plaintiff's second amended complaint was dismissed with leave to file an amended complaint. Plaintiff has now filed a third amended complaint.

The third amended complaint states a cognizable claim for relief pursuant to 42 U.S.C. § 1983 and 28 U.S.C. § 1915A(b). If the allegations of the amended complaint are proven, plaintiff has a reasonable opportunity to prevail on the merits of this action.

In accordance with the above, IT IS HEREBY ORDERED that:

1. Service is appropriate for the following defendants: Sweeten and Barron.
2. The Clerk of the Court shall send plaintiff two USM-285 forms, one summons, an instruction sheet and a copy of the third amended complaint filed September 22, 2008.

1           3. Within thirty days from the date of this order, plaintiff shall complete the  
2 attached Notice of Submission of Documents and submit the following documents to the court:

- 3           a. The completed Notice of Submission of Documents;  
4           b. One completed summons;  
5           c. One completed USM-285 form for each defendant listed in number 1  
6           above; and  
7           d. Three copies of the endorsed third amended complaint filed September  
8           22, 2008.

9           4. Plaintiff need not attempt service on defendants and need not request waiver of  
10 service. Upon receipt of the above-described documents, the court will direct the United States  
11 Marshal to serve the above-named defendants pursuant to Federal Rule of Civil Procedure 4  
12 without payment of costs.

13 DATED: February 3, 2009.

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16 U.S. MAGISTRATE JUDGE  
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NOTICE OF SUBMISSION  
OF DOCUMENTS

\_\_\_\_\_/

Plaintiff hereby submits the following documents in compliance with the court's  
order filed \_\_\_\_\_:

\_\_\_\_\_ completed summons form

\_\_\_\_\_ completed USM-285 forms

\_\_\_\_\_ copies of the \_\_\_\_\_  
Amended Complaint

DATED:

\_\_\_\_\_  
Plaintiff